



CITY OF MORGAN HILL

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

Website Address: www.morgan-hill.ca.gov / Email: General@ch.morgan-hill.ca.gov

PLANNING COMMISSION MINUTES

REGULAR MEETING

SEPTEMBER 12, 2000

PRESENT: Kennett, Lyle, McMahon, Pinion, Sullivan

ABSENT: Ridner

LATE: Mueller

STAFF: Planning Manager (PM) PM Rowe, Senior Planner (SP) Banks, Senior Engineer (SE) Creer and Minutes Clerk Johnson

REGULAR MEETING

Chair Kennett called the meeting to order at 7:00 p.m.

DECLARATION - POSTING OF AGENDA

Minutes Clerk Johnson certified that this meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

PUBLIC COMMENTS

Chair Kennett opened the floor to public comments.
There being none, Chair Kennett closed the public comments.

MINUTES

AUGUST 22, 2000 COMMISSIONERS SULLIVAN/LYLE MOTIONED TO APPROVE THE AUGUST 22, 2000 MEETING MINUTES WITH THE FOLLOWING AMENDMENTS:

- 1) Page 3, paragraph 3, line 5 was amended to read: “....was negligent in the ~~type of people~~ **experience level of people**....”
- 2) Page 5, paragraph 6 was amended to read: “.....problem created ~~with the increased traffic conditions~~ **from the newly-created dangerous traffic intersection.**”

Commissioner Sullivan clarified a point of interest dealing with the urban service discussion in response to a request by Commissioner McMahon. There were two potential

benefits noted: 1) Traffic, which would not provide significant benefit; and 2) Water, the benefit of which would be marginal. It was noted that the findings were based on whether the benefits would outweigh potential disadvantages.

THE MOTION CARRIED BY A VOTE OF 4-0, WITH PINION ABSTAINING AND MUELLER AND RIDNER ABSENT.

NEW BUSINESS:

**1. ZA-00-09:
ST. LOUISE-
SAN JOSE
CHRISTIAN
COLLEGE**

A request to amend the precise development plan under a PUD, Planned Unit Development District to allow the former St. Louise Hospital to be converted to a private college. The proposed zone amendment would only allow reuse of the existing hospital and office buildings. Maximum enrollment would be limited to 400 students. Project site is located at 18500 Saint Louise Drive, south of Cochrane Road east of Highway 101. PM Rowe presented the staff report, noting that because the traffic report could not be completed timely, staff requested this item be continued to the September 26, 2000 meeting.

The Chair opened the hearing to public comments.

Jerry Vinaguerra, 18395 Catistrano Way, addressed the Commission, relating that he was the homeowners' representative of the Mission Ranch Development, an association of 60 homeowners, all who opposed the project. He said that he is the closest neighbor to the proposed project and listed the concerns of all the homeowners as follows: Traffic, density, future growth/sports arena, housing for students, and lack of planning for parking. Mr. Vinaguerra indicated his intention of speaking in opposition to the proposal at future meetings.

Zsolt Halmos, 18313 Solano Court, also directed remarks to the Commission. He too is a homeowner in the Mission Ranch Development, and opposed the proposal on the basis of the potential change in the neighborhood. He said that having looked at the proposal and studied the location, he believes a stark contrast to Mission Ranch would be had. Mr. Halmos voiced doubts that the school would bring benefits to the City. He said a preference would be to bring a tax-exempt entity which would bring business to the City. He indicated that written comments had been submitted to the Commission from he and his wife and were part of the record.

With no others wishing to speak, the public hearing was closed.

COMMISSIONERS MCMAHON/ LYLE MOTIONED THAT THE MATTER OF ZA-00-09 BE CONTINUED TO SEPTEMBER 26, 2000 DUE TO THE NEED FOR COMPLETION OF DATA COLLECTION AND ANALYSIS BY STAFF. THE MOTION PASSED UNANIMOUSLY, WITH MUELLER AND RIDNER ABSENT.

**2. SD-00-12/
DA-00-06:
COCHRANE-
COYOTE**

ESTATES

A request for approval of tentative map to subdivide a portion of a 16.0 site into 5 lots for future single family residential development. The request included approval of a Development Agreement pursuant to Government Code Sections

PLANNING COMMISSION MINUTES

SEPTEMBER 12, 2000

PAGE -3-

65864-65869.5.

The proposed development will be Phase 5A of the Coyote Estate Development, and is located on the northerly extension of Peet Road, north of Cochrane Road in the R-1

(12,000)/RPD zoning district. The project was awarded a building allotment under the City's Residential Development Control System for Fiscal Year 2001-02. PM Rowe presented the staff report, noting that the action requested would continue the project for one year.

Commissioner Lyle stated that he has no concerns with this item at this time, but would like to reserve comments regarding Exhibit B, items 3 and 4 on page 15, noting

there may be the need to insert a "checkpoint" in between the currently listed time frames, with a potential therefore of changes being necessary in the narrative. PM Rowe said Staff would look at this issue. Commissioner Sullivan asked if the BMRs are adequate for this project, and if there should be a particular way to provide set-up? PM Rowe replied "yes", further explaining traffic, curb, gutter and street work requirements.

Commissioner Sullivan further questioned whether contiguous growth issues were being addressed? PM Rowe explained the areas around the subject property which has been previously approved. Commissioner Lyle asked PM Rowe to call attention to the maps in the packets which further clarified the issues.

Chair Kennett opened the public hearing. With no one present wishing to address the Commission on the matter, the public hearing was closed.

RESOLUTION NO. 00-48 WAS MOTIONED FOR APPROVAL BY COMMISSIONER MCMAHON, SECONDED BY COMMISSIONER PINION, AND CARRIED UNANIMOUSLY BY THOSE COMMISSIONERS PRESENT, WITH MUELLER AND RIDNER ABSENT.

APPROVAL OF RESOLUTION NO. 00-49 WAS MOVED BY COMMISSIONER PINION, SECONDED BY COMMISSIONER SULLIVAN, AND PASSED UNANIMOUSLY BY THOSE COMMISSIONERS PRESENT, WITH MUELLER AND RIDNER ABSENT.

**3. UP-00-03:
BARRETT-
CHEN**

northwest corner of Barrett Avenue and San Ramon Drive in the R-1 (7000) single-family residential district. PM Rowe presented the staff report, which included the project assessment and findings (site suitability, traffic impacts, general welfare, and compatibility with surrounding areas) which would be required should the Commission wish to approve the request. He then responded to questions from the Commissioners.

Commissioner Sullivan noted that it appeared the proposed dwelling would be an upstairs unit over a unique garage which is interlinked to the main dwelling, with each dwelling having both a garage and a driveway. PM Rowe agreed with this assessment.

Commissioner Mueller took his seat at the dais at this time.

Commissioner Pinion asked if the dwellings were permitted, and whether the property could be subdivided at a future time? PM Rowe explained that any requests for division must be consistent with the requirements of Measure P. It was also noted that the City Council has allowed single-family dwelling exemptions to the Measure.

A
request for
approval of a
conditional use
permit to allow
a secondary
dwelling unit
attached to a
single-family
dwelling on a
5.0 acre parcel
at the

Commissioner Lyle asked if the applicant must bring the road up to code as part of the proposal? He indicated this would be in excess of 1600 linear feet of road improvement. PM Rowe replied there must be some discussion with the City Department of Public Works, but there would be a need to improve the existing road.

Chairwoman Kennett asked if the conditions of Measure P must be met concerning the exterior trim of the dwellings? PM Rowe responded "yes". Chair Kennett also inquired whether the 20-ft. setback was acceptable and permissible? PM Rowe stated that the 20-ft. requirement was behind the right of way, and the application indicated planning for a 21-ft. location behind the sidewalk.

The public hearing was opened.

Dennis Weatherman, who resides at 705 Barrett St., described the location of his property as being across the street and slightly to the northeast of the subject. He said the location of his home is why he is so interested and that he opposed the proposed use. He presented a brief overview of the neighborhood, stating that overall it is a pretty good area; however, expressed concern that the proposed location of the dwelling(s) is in an extreme corner of the property, raising doubts that further development is planned.

Emily Chen, owner of the property, was in attendance and addressed the Commission. She stated, in response to a question by Commissioner Sullivan, that she did not intend to occupy the property. She also said she owns property across the street at Barrett and Hill. Commissioner McMahon asked the owner if thought had been given to setting one or two lots from the property? Ms. Chen indicated this was a consideration.

Commissioner Lyle commented that it appears this proposal as presented does not meet the requirements of Measure P. He cautioned the Applicant that if this proposal is allowed, there could be no further consideration for development under Measure P. The Applicant replied that it was not her intention to use this proposal under the requirement of Measure P; it would be directed to any future development.

There being no other persons present who wished to speak to the matter, the public hearing was closed.

Members of the Commission engaged in discussion regarding the proposal.

Commissioner Mueller asked if this proposal really fits the policy of Measure P? PM Rowe read the rules and exemptions, noting that deed restrictions are explicitly required, the request must be for single family dwellings, and reasonable use of the property for the owners is stressed. He further indicated that if the house as proposed here is on five acres, under present rules, it must stay five acres.

Commissioner Lyle asked if under the clarification adopted by the City Council of Measure P whether this was an allowable use? Commissioner Sullivan asked if the Commission's purpose is to determine the intent of the City Council in their findings and if this appeared to fit those findings? Commissioner Lyle said it is his belief that if that is the case, every builder would build a house and then apply for further building permits under Measure P.

Commissioner Pinion asked if it would be possible to permit only the “granny” application at this time without a primary dwelling already in place? He indicated that according to the interpretations he has been presented, he does not believe this is an allowable use. Commissioner Lyle said this appears to be the beginning of a development on the property. Commissioner Mueller reminded that Measure P was written to close loophole problems with Measure E. PM Rowe again presented the requirements of granting agreements under Measure P. He spoke of Staff’s consideration of consistency with the policy set by the City Council.

COMMISSIONERS PINION/SULLIVAN MOTIONED TO DENY RESOLUTION NO. 00-50, NOTING THAT THE COMMISSION’S FINDINGS ARE THAT THE PROPOSAL APPEARS TO BE PART OF A LARGER DEVELOPMENT AND IS NOT CONSISTENT WITH THE USES OF SINGLE-FAMILY DWELLINGS ALLOWABLE UNDER MEASURE P. THE MOTION PASSED ON A VOTE OF 4-0-2-1 AS FOLLOWS: AYES: KENNETT, LYLE, PINION, SULLIVAN, NOES: NONE; ABSTAIN:, MCMAHON, MUELLER; ABSENT: RIDNER.

OLD BUSINESS:

**4. ZA-99-16:
CITY OF
MORGAN HILL
WOOD
SMOKE
MODEL
ORDINANCE**

This ordinance will regulate the installation of wood burning appliances for new construction. SP Banks presented the staff report, indicating the presence of a representative of the Bay Area Air Quality Management District (BAAQMD), Tommie Mayfield, who could answer technical questions. SP Banks provided the chronicle of the Ordinance proposal, noting in the original BAAQMD model only gas fireplaces, pellet-fueled wood heaters and EPA certified wood-burning appliances would be permitted in new construction. He indicated that the ordinance has been revised and now excludes masonry fireplaces, and discussed the rationale for such exclusion.

SP Banks then discussed the concerns that the Commission had with the previous draft ordinance, which included (1) a lack of EPA certification process and (2) that in dealing with other issues, e.g., enforcement, a “wait and see” approach to observe the actions of other jurisdictions might be more appropriate. The City Council had considered the ordinance and had referred the matter back to Staff with direction to work with the Air District and California Hearth and Homes (CH&H), an organization which includes fireplace designers, masons, contractors and home designers, in an effort to develop a more acceptable ordinance.

SP Banks presented the Commissioners with a letter from the California Hearth and Homes (CH&H), which indicated support for the proposal now before the Commission. He also advised the Commission that Staff had discussed with BAAQMD and CH&H the possibilities of establishing an emission standard for masonry fireplaces. He reported that no agreement could be reached on an appropriate standard, and that it would not be feasible for the City of Morgan Hill to independently establish a standard. SP Banks reported that the Northern Sonoma County Air Pollution Control Board is currently working on standards for masonry fireplaces, but that in-depth study of the tests will not begin until 2001 and that possible standards are at least one year away.

SP Banks also indicated to the Commissioners that the Home Builders Association of San

Jose and the Tri-County Association supported the prohibition of masonry fireplaces in San Jose when that City was preparing a wood-smoke ordinance. He noted that the support of the two organizations included the report that most new residential construction units already use gas-fired fireplaces And that only in a very few cases are wood-burning fireplaces included in building permit applications.

SP Banks advised the Commission that a negative declaration was previously approved for this item and no additional environmental review is necessary. He then introduced Tommie Mayfield of BAAQMD. Ms. Mayfield indicated that there is no certification process for masonry fireplaces and explained that the Northern Sonoma County Air Pollution Control Board has had good preliminary results towards establishing standards for masonry fireplaces, and that they should be doing further testing over the next year. Ms. Mayfield commended the Staff in the Morgan Hill Planning Department for their efforts to develop a more acceptable ordinance than had been previously presented, noting how important it is for the local population to have all health and safety issues, as well as financial concerns addressed. She referred to the Ordinance as a working document which could evolve and change to meet the needs of the community.

Commissioner Pinion asked for clarifying information of pellet stoves versus masonry fireplaces, fireplace inserts and free-standing wood-burning stoves. Ms. Mayfield responded to his specific questions. As Commissioner Pinion read from the definitions presented, Ms. Mayfield offered what she had learned in meeting with the the EPA staff, which helped to explain some of the specifics of the BAAQMD model ordinance. She stated that although there appeared to be a conception that EPA standards had been developed and adopted for wood-burning fireplaces, this was not the case.

Commissioner Sullivan inquired when severe problems had been noted with air quality in the area? Ms. Mayfield replied the Spare the Air Nights were well supported in the community and that air quality enhancement efforts by the Commission and City Council had "paid off" in good air quality for the area. She said the last time recorded problems had occurred were in 1991. In the matter of enforcement, Ms. Mayfield said that enforcement of any type of legislation dealing with this matter is difficult due to staff shortages and the potential expenses of adding staff to ensure enforcement. She urged the Commission to adopt the resolution before them as good practice and future protection, noting that merely having such an ordinance in place is a good preventive measure for the community.

Ms. Mayfield discussed the particulate (wood-burning in the air) of wood-burning heaters, noting that in California weather plays a big part in when wood-burning devices are used. She further addressed the ratios of air to fuel ratios, noting that EPA certification for clean-burning devices required a ratio of 35:1. This ratio results from EPA testing on pellet-burning stoves, not masonry fireplaces. Commissioner Lyle, Commissioner Pinion, and Commissioner Mueller discussed with Ms. Mayfield the ratios of efficiency in wood-burning fireplaces and wood-burning heaters. Commissioner Pinion noted a home fireplace generally has a air-fuel ratio of less than 35:1, but that most people only cared if the fireplace would burn or not. He also said that there were mostly two reasons for a fireplace (1) the ambiance and (2) the need for less expensive fuel. He said that a wood-burning fireplace might not be less expensive in the City anymore.

The Commissioners discussed whether or not it might make more sense to for the BAAQMD to concentrate enforcement efforts on tire-burning and wild-fires? Ms. Mayfield replied that these are occasional instances requiring attention, but that winter in California and wood-burning fireplaces mean on-going particulate emission, which is an increasing issue.

Chair Kennett expressed the importance of getting an Ordinance on the books; that should a worse-case scenario develop and air quality deteriorate, the Commission would have prevented an adverse problem.

COMMISSIONER MUELLER MOVED FOR THE ADOPTION OF RESOLUTION 99-73, WHICH PROVIDED FOR THE APPROVAL OF APPLICATION ZA-99-16, WITH AMENDMENT TO THE ORDINANCE TO MOVE THE PHRASE “EXCEPT PELLET-FUELED WOOD HEATERS” TO THE END OF THE SENTENCE IN SECTION 15.64.030.C. COMMISSIONER MCMAHON SECONDED THE MOTION. THE MOTION CARRIED BY A VOTE OF 5-1-0-1 AS FOLLOWS: AYES: KENNETT, LYLE, MCMAHON, MUELLER, SULLIVAN; NOES: PINION; ABSTAIN: NONE; ABSENT: RIDNER.

ANNOUNCEMENTS:

Judi Johnson, who was welcomed as Minutes Clerk for the Commission, thanked Staff and the Commissioners for their assistance.

ADJOURNMENT:

There being no further business, Chair Kennett adjourned the meeting at 8:44 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON
Minutes Clerk